

EXHIBIT “B”

10/14/2003

On Tuesday night Ms. Lacroix came in to Pick up her car. She was mad because the car was not Done. Her son had droped it with me 3 hour's earlier. I Explained to her that I called the #'s that were supplied by her son. The number was his Dad's home Phone who was in Florida. I told the woman I was Sorry. She continued to be upset because her tire was not repairable. She said that she was here last week and we told her the same thing and she implied I S that what you people do here (sell people tires they don't need) I responded and told her no we don't do that here. She then started yelling at me about the mechanics swearing. She pointed out Frank and Eric. ~~Frank~~ offered her his 10% off and Eric got mad that the woman pointed him out as swearing. ~~Eric~~ Told Frank not to give her 10% off. I do remember him being very Rude and saying something Profanic. ~~I~~ I was trying to calm every thing down at the time. The woman got very upset and walked away. I told Frank he shouldn't have sworn and told eric he should not have got involved. I then went to ~~get~~ the customer. I ^{ask} ~~ask~~ her what she would like me to do and took care of her the best I could being apolagetic and sincere. ~~I~~ I ~~remember~~ remember her demanding everyone's name in the back shop. I think that's why eric spoke up. He did not want to get in trouble for swearing. He then did end up Swearing and I belive he should have been quiet. To many people got involved with this customer including ~~Eric~~ and Dr. R.

ON WEDNESDAY OCTOBER 15, 2003 I RECEIVED A CALL
FROM A MRS. PHIL LACROIX.

She claims THAT while she was having a tire replaced
ON Tuesday Evening IN OUR AUTO CENTER ERIC SOUVANNAKAVE
BUTTED HIS 2 CENTS IN DURING HER CONVERSATION WITH ANOTHER
TECH. She claims THAT while she was talking ~~WITH~~ ^{WITH} FRANK
CASSALETTO THAT ERIC CAME OVER + SAID "FRANK DON'T GIVE
HER 10% OFF THE TIRE SHE'S AN ASSHOLE." MRS. LACROIX
SAID "YOU CAN'T TALK TO ME LIKE THAT I'M A CUSTOMER.
They argued more AND THEN ERIC SAID FUCK YOU TO MRS. LACROIX.
She TOLD me she was nervous AND THAT ERIC KEPT GIVING her
DIRTY LOOKS WHILE SHE WAITED FOR HER CAR TO BE COMPLETED.

Atty. J. L. 10/15/03

a Customer came in last night 10/14/03 for a Flat Repair. Tire could not be repaired. G. Caleo notified Customer that Tire could not be repaired. Customer and G. Caleo had argument about purchase a new tire. Frank could not repair Tire. Customer was unhappy. Frank said the F-word out loud. Eric came over argued with the Customer and he said at the Customer the F-word. The Customer was unhappy and she wanted to talk to management. Andy Spoke to the Customer to calm her down. She said that Eric had no right to talk to her in a bad way. G. Caleo told Eric to go back to work and that Andy and himself would take care of the Customer.

Andy Alster

10-15-03

EXHIBIT “C”

Eric Souvannakave Has Been Given A
Final Warning Per Barbara TheLinen For The
Incident That Occurred With Customer on
9/29/2003.

x vt See Attached

x Acting C 10/2/03

EXHIBIT “D”

APPLICATION FOR COMPLAINT

INCB0001

 ADULT JUVENILE

0413CR 1350

District Court Department
COURT DIVISION

LYNN DISTRICT COURT

580 ESSEX ST

LYNN, MA.

10/20

ARREST HEARING SUMMONS WARRANT

THE WITHIN NAMED COMPLAINANT REQUESTS THAT A COMPLAINT ISSUE AGAINST THE WITHIN NAMED DEFENDANT, CHARGING SAID DEFENDANT WITH THE OFFENSE(S) LISTED BELOW.

DATE OF APPLICATION 10/17/2003 DATE OF OFFENSE 10/19/2003 PLACE OF OFFENSE SAUGUS, MA

NAME OF COMPLAINANT
PATROLMAN GARY E MANSFIELD

NO.	OFFENSE	G.L. AND SEC.
1.	DESTRUCTION OF PROPERTY *\$250, MALICIOUS [266/127]	266 127
2.		
3.		
4.		

A hearing upon this complaint application
will be held at the above court address on

DATE OF HEARING

TIME OF HEARING

Two 11/25/03 AT 2:30 p.m.

CASE PARTICULARS — BE SPECIFIC

No.	NAME OF VICTIM Owner of property, person assaulted, etc.	DESCRIPTION OF PROPERTY Goods stolen, what destroyed, etc.	VALUE OF PROPERTY Over or under \$250	TYPE OF CONTROLLED SUBSTANCE OR WEAPON Marijuana, gun, etc.
1.	SEARS AUTOMOTIVE	* PLEASE SEE REPORT *	OVER	
2.				
3.				
4.				

OTHER REMARKS



SIGNATURE OF COMPLAINANT

DEFENDANT IDENTIFICATION INFORMATION — Complete data below if known.

DATE OF BIRTH 10/20/1982	PLACE OF BIRTH	SOC. SECURITY NO. 015-04-2182	SEX M	HEIGHT 5'11"	WEIGHT 143	EYES	HAIR
OCCUPATION	EMPLOYER/SCHOOL	MOTHER'S NAME (MAIDEN)		FATHER'S NAME			

DATE	DISPOSITION	AUTHORIZED BY
	NO PROCESS TO ISSUE <input type="checkbox"/> At request of complainant <input type="checkbox"/> Complainant failed to prosecute <input type="checkbox"/> Insufficient evidence having been presented	
11-25-03	PROCESS TO ISSUE <input type="checkbox"/> Sufficient evidence presented <input type="checkbox"/> Defendant failed to appear	TYPE OF PROCESS <input type="checkbox"/> Warrant <input checked="" type="checkbox"/> Summons returnable
	<input type="checkbox"/> Continued to	

Comments: (Atty. soon) Jh. Baldi for Eric

17917

EXHIBIT “E”

ORIGINAL

VOL. I
Pp. 1 - 117
Exhibits 1 - 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

C.A. NO.: 0412164MLW

* * * * *

ERIC SOUVANNAKANE,

Plaintiff

VS.

SEARS ROEBUCK & COMPANY, WILLIAM
SULLIVAN, RICHARD SPELLMAN,
BARBARA TAGLIARINO, KEVIN
SULLIVAN, ALICIA COVIELLO, GARY
MANSFIELD,

Defendants

* * * * *

Deposition of JOHN W. BALDI, a witness called by
counsel for the Defendants, Gary Mansfield, pursuant
to the applicable rules, before Lorreen Hollingsworth,
CSR/RPR, CSR NO. 114793, and Notary Public in and for
the Commonwealth of Massachusetts, at the Law Offices
of Pierce, Davis & Perritano, LLP, Ten Winthrop
Square, Boston, Massachusetts, on Tuesday, April 18,
2006, at 10:15 a.m.

24

CURRAN COURT REPORTING
(781) 279-8400

1 A Yes, I qualified to do Level 1 and Level 2
2 jobs, I get paid for Level 2 jobs, but I
3 don't get the hourly pay as a Level 2.

4 Q And still today, is your position at Sears
5 a Tech 1 position?

6 A Yes.

7 Q Do you hold any licenses or certifications
8 for your profession or trade, sir?

9 A No.

10 Q Now, I ask this of all witnesses, sir.

11 Have you been convicted of a
12 misdemeanor in the past five years?

13 A No.

14 Q Have you been convicted of a felony since
15 age 18 to today?

16 A No, never convicted of a felony.

17 Q Are you aware, sir, that I'm representing
18 Officer Gary Mansfield, employed by the
19 Saugus Police in this action?

20 A Yes.

21 Q Have you, yourself, ever been arrested by
22 any member of the Saugus Police?

23 A No.

24 Q And do you know who Officer Gary Mansfield

1 is?

2 A I don't believe I've ever seen him before.

3 Q Now, when you were employed by Sears, when
4 you first started employment there, did you
5 have a supervisor?

6 A We had an assistant manager and a manager.

7 As far as a supervisor, I'm not really sure
8 what -- who would fall under that position.

9 Q When you were first hired, who was the
10 assistant manager that you worked for?

11 A Bill Dooley was the assistant manager.

12 Q And who was the manager at the time you
13 were first hired?

14 A The manager's name was Rick Mead.

15 Q And as far as your day-to-day activities at
16 Sears, did anyone give you direction on
17 what jobs to be doing?

18 A The jobs that come back get put on the
19 board, you go up to the board, you take a
20 job, you do the job, you put the keys up
21 front.

22 It's not, like, regulated.
23 They just put it up there; you take the
24 next one in line.

1 later.

2 Can you describe what happened
3 when he returned?

4 A He came back; he gave me the keys; I
5 remember we were talking in one of the
6 brake bays, more in the threshold to
7 outside; we were just, you know, BS'ing
8 around. And I remember he knocked one of
9 the oil drums. And then he was, like, Oh.

10 He didn't -- when he bumped
11 it, it was more like he was kidding. It
12 wasn't, like, malicious. He was like, This
13 is Larry's bay. He started cleaning up.
14 He was like, Oh.

15 Q I didn't catch what you said, he said oh?

16 A Oh, this is Larry's bay. Larry is a brake
17 guy that works in the back.

18 Q So earlier when you described it as the
19 "brake bay," that's where you fix
20 automobile brakes?

21 A Yes.

22 Q Did you see how he bumped into the oil
23 drum?

24 A I think he kicked it. I'm not sure.

1 Q And what kind of -- can you describe the
2 oil drum that he kicked?

3 A It was one of the ones that totes -- you
4 can tote around the shop, the portable ones
5 with the -- they have a steel drum and they
6 have a catch pan connected to a pipe that
7 runs into the drum.

8 Q And do you know the volume of that
9 particular drum?

10 A That's one of those 20- 25- 30-gallon
11 drums.

12 Q And you said that it got knocked over? Was
13 it knocked over on its side?

14 A I can't remember if that was knocked over
15 or if it was one of the 5-quart oil fill
16 jugs that are on the top. Because if one
17 of those fell over, it would be a mess.
18 And there wasn't -- I mean, maybe a half a
19 quart -- not even a half a quart of oil
20 that came out when he hit the barrel.

21 Q Okay. So you have a memory of the volume
22 of the spill being small?

23 A Yes. The oil that came out of what he hit
24 was very small, I mean, smaller than this.

1 Q And the record is not going to reflect what
2 you're pointing to.

3 A Sorry. It's smaller than --

4 Q 2 feet by a foot and a half?

5 A Yeah, 2 feet.

6 Q Now, you mentioned that there could have
7 been two sources of that oil, the big
8 30-gallon drum or another little 5-gallon
9 gallon drum that you mentioned?

10 A 5 quarts.

11 Q 5 quarts?

12 A There's -- when you use one of those
13 tote -- well, the tote drains, to drain the
14 waste oil in. They have 5 -- there's one
15 4-quart and one 5-quart metal fill. It's
16 an oil fill. You go up to the pumps, you
17 pump the new oil into that, and you use
18 that to fill the car since the oil base is
19 the only source of the oil. So you use
20 those oil hoses to fill one of those and
21 you can walk around the shop and fill up a
22 car.

23 Q Okay. And the 5-quart oil fill buckets,
24 are those stored on the ground level or are

1 Q That's what I'm going to ask you about,
2 sir.

3 The spill the next morning
4 that you saw, was that the same location as
5 the spill that you saw the night before you
6 closed up shop?

7 A The night before -- when I saw it, it was
8 in the corner by the little shed or shack
9 with the door on it. It was over there.
10 And when I saw it the next day, it was
11 everywhere. It wasn't just there; it was
12 under the bays; it was out into the dead
13 bay; it was spread all over by the water.

14 Q Okay. Were you aware that the Saugus
15 Police were called about this incident,
16 sir?

17 A I had no idea.

18 Q Did you ever see any representative of the
19 Saugus Police come to Sears after this oil
20 spill?

21 A I saw no law enforcement whatsoever. As
22 far as police officers, I didn't see
23 anybody like that.

24 Q And I take it from that response that you,

1 yourself, were not interviewed by any
2 officers of the Saugus Police Department?

3 A Not about -- no, no.

4 Q I'm directing the question towards about
5 being interviewed about this oil spill,
6 sir.

7 A The only person that interviewed me was
8 Bill Sullivan.

9 Q Were you aware of any other Sears employees
10 who were asked to speak to the police about
11 this incident?

12 A I had no idea that other employees spoke to
13 the police.

14 Q Did any employees ever later tell you that
15 I had to speak to the police about this
16 incident?

17 A Not that I can remember.

18 Q And I think I might have asked you this
19 earlier, but you don't know who Officer
20 Gary Mansfield is of the Saugus Police
21 Department?

22 A No. I've never seen him, to the best of
23 my -- no, I have no idea.

24 Q And consistent with that, you never spoke

EXHIBIT “F”

GARY MANSFIELD

April 27, 2006

Page 9

1 A. I have a house.

2 Q. And did you live somewhere else in
3 Saugus prior to the house that you're in now?

4 A. Yes.

5 Q. Okay. And how long did you live in
6 that prior residence?

7 A. Thirty-five years.

8 Q. Okay. Are you married or single?

9 A. I am married.

10 Q. Do you have any children?

11 A. Yes.

12 Q. And your educational background?

13 Where were you educated?

14 A. Saugus schools.

15 Q. Anything postgraduate from high
16 school?

17 A. Umm. Accredited? I don't know what
18 you mean.

19 Q. College? Junior college?

20 A. No.

21 Q. Training programs?

22 A. Military and police. That's it.

23 Q. Okay. Where do you work now?

24 A. Saugus Police Department.

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 10

1 **Q. And how long have you worked there?**

2 **A. I believe this is my twenty-eighth**
3 **year.**

4 **Q. Okay. And what is your position at**
5 **the Saugus Police Department?**

6 **A. I am a patrol officer.**

7 **Q. So you worked as a patrolman or patrol**
8 **officer for the Saugus Police Department going**
9 **on twenty-eight years; is that correct?**

10 **A. Yes. The first eight were full-time**
11 **reserve status, and from '85 on, it was**
12 **full-time status.**

13 **Q. Okay. As part of your training for**
14 **becoming a police officer in Saugus, did you**
15 **attend either the State Police Academy or a**
16 **local academy?**

17 **A. Yes.**

18 **Q. Which one?**

19 **A. It was a municipal academy run by the**
20 **State Police.**

21 **Q. Okay. And have you ever applied for**
22 **or tested for a sergeant's exam?**

23 **A. I have tested for it.**

24 **Q. And what are the results of those**

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 12

1 A. We have annual in-service.

2 Q. And were you on duty and performing
3 your functions as a patrol officer on, I believe
4 it was a Friday, October 17th, 2003?

5 A. Yes.

6 Q. And at sometime during the course of
7 that day, did you go to the Sears Automotive
8 building at the Square One Mall in Saugus?

9 A. Yes, I did.

10 Q. Do you remember approximately what
11 time you went to the Sears Automotive building?

12 A. I do not. My best guess is early
13 evening.

14 Q. Okay. And what were the circumstances
15 that caused you to go to the Square One Mall,
16 Sears Automotive?

17 A. I was sent there.

18 Q. And who dispatched you to the Square
19 One Mall?

20 A. Police dispatch.

21 Q. Okay. Did anyone accompany you, a
22 partner, to the Sears Automotive?

23 A. No.

24 Q. Okay. Do you know if there is a

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 13

1 record or a log of dispatchers kept by the
2 Saugus Police Department?

3 A. I don't know what their recordkeeping
4 is.

5 Q. Okay. When you arrived at Sears
6 Automotive on the 17th of October, 2003, what
7 did you do?

8 A. I entered the building.

9 Q. Okay. Which building. The Sears
10 Automotive building?

11 A. Yes.

12 Q. Okay. And with whom did you meet?

13 A. I don't recall the name. It was a
14 female.

15 Q. Okay. Do you recall whether it was a
16 loss prevention officer?

17 A. My understanding, it was.

18 Q. Okay. And what did you discuss with
19 this person?

20 A. She told me why I was called up
21 there.

22 Q. And what did she say as to why you
23 were called up there?

24 A. My recollection is that she said that

GARY MANSFIELD

April 27, 2006

Page 14

1 they had an incident with a past employee who
2 had come on the property and caused property
3 damage, and that they wanted it adjudicated.

4 **Q. Okay. And what did you observe after**
5 **having this conversation with the female**
6 **employee of Sears?**

7 A. I obtained a voluntary statement from
8 one of the employees who stated that he
9 witnessed the event.

10 Q. So you spoke to the person that I will
11 identify as a loss prevention officer. You
12 spoke to her, and then spoke to a witness that
13 the loss prevention person told you to speak to;
14 is that correct?

15 A. Yes.

16 Q. Okay. And do you remember that
17 person's name?

18 A. An Hispanic name. It doesn't come to
19 me right now.

20 Q. Might it have been Hernandez?

21 A. It might have been.

22 Q. Okay. And once you finished your
23 conversation with Mr. Hernandez and the loss
24 prevention person, did you go to observe the

GARY MANSFIELD

April 27, 2006

Page 15

1 Sears Automotive building?

2 MR. CLOHERTY: Objection.

3 You can answer.

4 A. No.

5 Q. (By Mr. Olson) Okay. So let me
6 understand you. You never actually went to the
7 Sears Automotive building to witness what had
8 been described as destroyed property; is that
9 correct?

10 MR. CLOHERTY: Objection.

11 You can answer.

12 A. I was in that building.

13 Q. (By Mr. Olson) Okay.

14 A. I did not go to the area that they
15 stated there was damage.

16 Q. Okay. And why not?

17 A. My recollection is that it had already
18 been cleaned.

19 Q. I see. I would like to now actually
20 refer you to a document that I would like to
21 have marked as Exhibit 1, if I may.

22 (Exhibit No. 1 was marked
23 for identification)

24 Q. (By Mr. Olson) You have just been

GARY MANSFIELD

April 27, 2006

Page 21

1 page 3?

2 A. (Complying)

3 Q. Interrogatory No. 6 asked you how you
4 arrived at the conclusion that the waste oil
5 contained in the 30-gallon drum had a value of
6 three thousand dollars. And you responded:

7 That figure was given to me by Sears employee,
8 Alicia Coviello. A-L-I-C-I-A C-O-V-I-E-L-L-O.

9 Is that correct?

10 A. Say the question again, please.

11 Q. (By Mr. Olson) Yes. You said in
12 response to the Interrogatory about the value of
13 waste oil in the 30-gallon drum that you had
14 obtained that figure-- I'm sorry. The quote
15 was: That figure was given to me by Sears
16 employee, Alicia Coviello. Is that correct?

17 A. Yes, my dollar values that I assigned
18 to this case were given to me by Sears.

19 Q. And did you ask Miss Coviello how she
20 arrived at that figure?

21 A. My recollection was that I did.

22 Q. Okay. And have you ever purchased a
23 quart of oil for your car?

24 A. Yes.

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 27

1 MS. NETSKI: Yes. Could I
2 just ask a couple of things?

3
4 EXAMINATION BY MS. NETSKI:

5
6 Q. —Officer Mansfield, you said that you
7 spoke with the loss prevention manager when you
8 arrived at the auto center; is that right?

9 MR. OLSON: Objection.

10 A. My understanding is that that was her
11 position, loss prevention, yes.

12 Q. (By Ms. Netski) And was that Alicia
13 Coviello, as far as you're able to recall?

14 A. Yes.

15 Q. And do you remember speaking with
16 anyone else at the auto center while you were
17 there?

18 A. I recall other people being there, but
19 my recollection is I spoke with Alicia Coviello
20 and then the witness that I obtained a statement
21 from.

22 Q. And that was Mr. Hernandez, to the
23 best of your recollection?

24 A. Yes, ma'am.

GARY MANSFIELD

April 27, 2006

Page 28

1 Q. And so would it be fair to say you
2 didn't receive any substantive information in
3 the investigation from anyone other than
4 Miss Coviello and Mr. Hernandez?

5 A. That's my recollection and my
6 understanding, yes.

7 Q. Okay.

8 MS. NETSKI: That's all I
9 have.

10

11 EXAMINATION BY MR. CLOHERTY:

13

14 examination by Mr. Olson about the value of
15 three thousand dollars assigned as the property
16 damage. Do you recall that line of questioning,
17 sir?

18 A. Yes, sir.

19 Q. And from where was that three
20 thousand-dollar figure derived?

21 A. That was a total value of the damage
22 including the clean-up.

23 Q. Okay. And how were you informed or
24 how did you determine that value, sir?

GARY MANSFIELD

April 27, 2006

Page 29

1 A. I was given that value by the
2 complainant, Miss Coviello.

3 Q. And, in fact, looking at what was
4 marked as Exhibit No. 2, it appears to be an
5 invoice of services from a clean-up company. Do
6 you see that, sir?

7 A. Yes, sir.

8 Q. Have you ever seen that before?

9 A. Just earlier today.

10 Q. Okay. And on page 2 of that document,
11 there's a total value of clean-up on that
12 invoice. Did you see that, sir?

13 A. Yes, sir.

14 Q. And what is that amount?

15 A. Four thousand four hundred
16 eighty-three dollars and sixty-five cents.

17 Q. Earlier, sir, you were asked on direct
18 examination about a probable cause
19 determination. Do you recall that line of
20 questioning, sir?

21 A. Yes, sir.

22 Q. In your role as a responding officer
23 in this case, did you effect any arrests as a
24 result of your investigation?

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 30

1 A. I did not.

2 Q. **And why not?**

3 A. I brought this matter before the court
4 as requested for a probable cause hearing. The
5 information was given to me, and my
6 understanding met the elements of the crime, and
7 the next step in that is to bring it before a
8 magistrate and have him adjudicate it.

9 Q. **And how did that process take place,**
10 **sir?**

11 A. I submitted a request for a hearing.

12 Q. **And accompanying the request for a**
13 **hearing, what did you submit, sir?**

14 A. My report and witness statements.

15 Q. **And do you know if that hearing took**
16 **place, sir?**

17 A. Umm. I believe it did.

18 Q. **Okay. Did you have any further**
19 **participation in this matter after submitting**
20 **the request for a hearing?**

21 A. My best recollection is that I did
22 not.

23 MR. CLOHERTY: I don't have
24 anything further.

GARY MANSFIELD

April 27, 2006

Page 31

1 MR. OLSON: I have
2 redirect.

4 FURTHER EXAMINATION BY MR. OLSON:

6 Q. You testified that you submitted
7 witness statements, I believe. I thought I
8 heard plural. Is that correct?

9 A. If I did, it was misspoke. It was a
10 witness statement.

11 Q. So the only witness statement that you
12 submitted was that of Mr. Hernandez; is that
13 correct?

14 A. Yes, I believe that is the only one
15 that I had.

16 Q. Okay. You did not obtain a witness
17 statement from Miss Coviello; is that correct?

18 A. No.

19 MR. OLSON: Okay. Thank
20 you.

21 MR. CLOHERTY: Nothing
22 further.

23 MS. NETSKI: Thank you.

24 (Deposition concluded at 10:25 a.m.)

EXHIBIT “G”



Incident #: 03-1692-OF
Call #: 03-15990

Date/Time Reported: 10/17/2003 1712
Report Date/Time: 10/17/2003 2211
Occurred Between: 10/16/2003 1930-10/16/2003 2000
Status: Incident Open
Reporting Officer: PATROLMAN GARY MANSFIELD
Approving Officer: LIEUTENANT DAVID PUTNAM

Signature: _____

#	SUSPECT(S)	SEX	RACE	AGE	SSN	PHONE	
1	SOUVANNAKANE, ERIC 12 EUTAW AVE LYNN MA 01905	M	W	20	015-64-2182		
	BODY: NOT AVAIL. DOB: 10/25/1982 LICENSE NUMBER: MA S39280836				COMPLEXION: NOT AVAIL. PLACE OF BIRTH: NOT AVAIL. ETHNICITY: UNKNOWN		
#	OFFENSE(S)	A/C	STATE	LAW			
	LOCATION TYPE: Other/Unknown SEARS AUTOMOTIVE CENTER 1325 BROADWAY SAUGUS MA 01906				Zone: PRECINCT 4		
1	DESTRUCTION OF PROPERTY +\$250, MALICIOUS OCCURRED: 10/16/2003 1730	C		266		127	
#	VICTIM(S)	SEX	RACE	AGE	SSN	PHONE	
1	SEARS AUTOMOTIVE BROADWAY SAUGUS MA 01906 VICTIM CONNECTED TO OFFENSE NUMBER(S): 1					NOT AVAIL.	
#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
1	HERNANDEZ, JOSE 55 LUVERIC ST EAST BOSTON MA 02128 DOB: NOT AVAIL EMPLOYER: SEARS AUTOMOTIVE	WITNESS	M	U	22	NOT AVAIL	
2	COVIELLO, ALICIA 168 WATER ST SAUGUS MA 01906 DOB: NOT AVAIL EMPLOYER: SEARS	WITNESS	F	W	21	NOT AVAIL	

Saugus Police Department
Incident ReportPage: 2
10/19/2004Incident #: 03-1692-OF
Call #: 03-15990

#	OTHER PROPERTIES	PROPERTY #	STATUS
1	OIL DEPOT INSIDE SEARS AUTOMOTIVE QUANTITY: 1 SERIAL #: NOT AVAIL DATE: 10/17/2003 OWNER: SEARS AUTOMOTIVE	VALUE: \$3,000.00	Destroyed/Damaged/Vandalized

Ref: 03-1692-OF

RP- Alicia Coviello stated that a recently terminated employee of Sears Automotive (Eric Souvannakane) returned to the business on 10/16/03 and caused damage to the company by willfully and maliciously tipping a 30 gallon barrel that contained used motor oil. The spill required Sears to hire a hazardous waste company, which cost Sears approximately 3,000.00. The incident was witnessed by employee Jose Hernandez who supplied a written statement implicating Souvannakane.

On behalf of Sears I request that a show cause hearing be scheduled for this incident.

Mansfield/4477

STATEMENT

1. Jose Hernandez

, an associate of Sears, Roebuck and Co., free

make the following statement to William Sullivan

who I know to be

I have been employed at Sears 2 years

, since

a _____; my associate number is _____

and my Social Security number is _____

On this date Oct 17, 2003 requested my cooperation in discussing a situation that occurred during my employment with Sears. My statement pertaining to this situation follows:Puncher at 12:00

Started an alignment at 7:00 pm. The alignment last app 1 hr. Eric came at 7:00-7:30. 7:30 saw him in brake dept. He ^{was} with John Reid and a friend non employee. He saw him throw windshield washer fluid, then heard a bang and the barrel hit the floor. Jose turned saw barrel. Eric then picked up the barrel. Turned again saw Eric place oil pads on spill. By then the barrel was messy, yet when Jose finished he was washing his hands. He stated to Jose, "You didn't see anything right around 8:15 started working oil dept (Rogers ^{Storage} Ctr). You saw spill around oil barrel. He ^{didn't} did not say

I have read this statement, the contents of which are true facts, that have been discussed with

Jose Hernandez, John Reid, William Sullivan

and me on this date

I have made this statement of my own free will. No threats or promises were made to me, as an inducement to give this statement.

SIGNED	DATE	TIME
<u>Jose Hernandez</u>	10-17-03	3:50
WITNESS	DATE	TIME
<u>John Reid</u>	10-17-03	1:30
WITNESS	DATE	TIME

STATEMENT

I, _____, an associate of Sears, Roebuck and Co., freely make the following statement to _____ who I know to be a representative of Sears, Roebuck and Co.

I have been employed at Sears _____ since _____ as a _____; my associate number is _____

and my Social Security number is _____

On this date _____ requested my cooperation in discussing a situation that occurred during my employment with Sears. My statement pertaining to this situation follows:

anything to his manager Kevin Sullivan

written with permission of Jose Hernandez
to John Reed and William Sullivan

I have read this statement, the contents of which are true facts, that have been discussed with _____

José Hernandez, John Reed, Bill Sullivan and me on this date.

I have made this statement of my own free will. No threats or promises were made to me, as an inducement to give this statement.

SIGNATURE	DATE	TIME
<i>José Hernandez</i>	10-17-03	3:30p
WITNESS	DATE	TIME
<i>William Sullivan</i>	10-17-03	
WITNESS	DATE	TIME

④ Contains Post Consumer
Recycled Paper

For Date: 10/17/2003 - Friday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>	<u>Priority</u>
03-15990	1712	Phone - PROPERTY DAMAGE	SUMMONS REQUESTED	2
Call Taker:		7983 - CIVILIAN DISPATCHER DAVID E FELIX		
Call Modified By:		4477 - PATROLMAN GARY E MANSFIELD		
Location/Address:		[100 1078] SEARS AUTOMOTIVE CENTER (SQUARE ONE MALL) - 1325 BROADWAY		
Involved Party:		SOUVANNAKANE, ERIC @ 12 EUTAW AVE - LYNN, MA 01905		
Calling/Inv. Party:		SSN: 015642182 DOB: 10/25/1982		
		SEARS LOSS PREVENTION 781-231-4688		
		COVIELLO, ALICIA @ 168 WATER ST - SAUGUS, MA 01906		
		SSN: 012709525 DOB: 08/04/1982		
ID:		4477 - PATROLMAN GARY E MANSFIELD		
		Disp-17:22:42 Enrt-17:22:44 Arvd-17:22:46 Cld-17:55:46		
Narrative:		10/17/2003 1719 CIVILIAN DISPATCHER DAVID E FELIX		
Modified By:		10/17/2003 1850 LIEUTENANT DAVID J PUTNAM		
		10/17/2003 1714		
		MANAGER OF SEARS AUTO REQUESTS TO SPEAK TO AN OFFICER		
		REGARDING AN INCIDENT (CALL#15967) THAT OCCURRED EARLIER		
		TODAY. THE MANAGER THINKS THE DAMAGE WAS INTENTIONAL.		
		OFFICER MANSFIELD RESPONDING AND REPORTS		
Narrative:		10/17/2003 1844 PATROLMAN GARY E MANSFIELD		
Modified By:		10/17/2003 2031 LIEUTENANT DAVID J PUTNAM		
		THE MANAGER REQUESTS TO SPEAK TO AN OFFICER ABOUT AN		
		INCIDENT EARLIER TODAY (CALL #03-15967). SENT OFFICER		
		MANSFIELD WHO REPORTS A REQUEST FOR A SHOW CAUSE HEARING		
		WILL BE SOUGHT AGAINST ERIC SOUVANNAKANE FOR MALICIOUS		
		DESTRUCTION OF PROPERTY OVER 250.00 REFER TO INCIDENT		
		REPORT 03-1692-OF		

GM/4477

Refer To Incident: 03-1692-OF

EXHIBIT “H”

ENPRO services, inc.

12 Mulliken Way, Newburyport, Massachusetts 01950
TEL. (978) 465-1595

INVOICE 10256-3

DATE: December 31, 2003

JOB NO. 4732-03

PURCHASE
ORDER NO.

CONTACT G. Grenoble

00229675

Environmental Products & Services, Inc.
5140 Paxton Street
Harrisburg, PA 17111

MA DEP Rep: P. Giddings
MA DEP RTN: 3-23285

TERMS: Payment due upon receipt. An interest charge of 1 1/2% per month (18% per annum) will be charged on all invoices over 30 days.

DESCRIPTION	AMOUNT
-------------	--------

Emergency Response Rates Apply to First Day Only

Rates are Portal to Portal - Newburyport, MA

Four Hour Minimum Applies to all Field Labor and Equipment

Project Location: Sears Roebuck & Company - Auto Center
1325 Broadway
Saugus, MA 01906

Friday, October 17, 2003 - 10:30 a.m. - 4:00 p.m. (Only Charged 4 Hour Min.)

Provide emergency response services to perform clean up of a waste oil release. Release was reported to have impacted concrete floor, floor drains with impact to oil water separator. Release was reported to ENPRO to be approximately 30 gallons. Release was reported to have occurred from an overturned thirty-gallon drum staged on site. Quantity/volume of release estimated to be greater than ten gallons, which exceeds the Massachusetts Contingency Plan (MCP) Reportable Quantity (RQ). Services to be conducted in accordance with Federal, State and Local Regulations with specific reference to the Massachusetts Contingency Plan (MCP - 310 CMR 40.0000).

For Detailed Description of Services Performed see Response Action Outcome Statement and Supporting Summary Letter Report dated January 2004.

M. Coty	Environmental Engineer	4.00	Hr ER	@	126.00	\$504.00
J. Leone	Foreman	4.00	Hr ER	@	90.00	\$360.00
J. Lowell	Equipment Operator/Driver (Vacuum Truck)	4.00	Hr ER	@	81.00	\$324.00
R. Baldini	Recovery Technician	4.00	Hr ER	@	72.00	\$288.00
T. Flynn	Recovery Technician	4.00	Hr ER	@	72.00	\$288.00
Travel Vehicle/Engineer c/w Field Monitoring Equipment		1.00	Event	@	150.00	\$150.00
Utility Truck c/w Small Power and Hand Tools		0.50	Day	@	200.00	\$100.00
Utility Truck w/ Response Trailer		0.50	Day	@	520.00	\$260.00
Vacuum Truck		0.50	Day	@	440.00	\$220.00
17H 55 Gallon DOT Approved Drum		4.00	Drum	@	34.50	\$138.00
Absorbent Speedi Dry		10.00	Bag	@	7.50	\$75.00
5% Massachusetts Sales Tax						\$10.65

APPROVED BY:

If it be necessary to employ outside services to collect any amount, it is specifically agreed that the customer will pay all such cost, including reasonable attorney's fees and court costs.

TOTAL

CONTINUED

ENPRO services, inc.

12 Mulliken Way, Newburyport, Massachusetts 01950
TEL. (978) 465-1595

00229675

Environmental Products & Services, Inc.
5140 Paxton Street
Harrisburg, PA 17111

INVOICE 10256-3

DATE: December 31, 2003

JOB NO. 4732-03

PURCHASE
ORDER NO.

CONTACT G. Grenoble

MA DEP Rep: P. Giddings
MA DEP RTN: 3-23285

TERMS: Payment due upon receipt. An interest charge of 1 1/2% per month (18% per annum) will be charged on all invoices over 30 days.

DESCRIPTION	AMOUNT
Page 2- Continued	
October 21, 2003	
Loaded, transported and disposed of drummed remediation waste generated from initial response actions as per manifest document at approved receiving facility.	
Transportation of Drummed Remediation Waste Disposal Waste Oil Solid Massachusetts Hazardous Waste Transporters Fee	\$150.00 \$375.00 \$36.00
November 3, 2003.	
Loaded, transported and disposed of drummed liquid waste oil generated from initial response actions as per manifest document at approved receiving facility.	
Transportation of Drummed Remediation Waste Disposal Waste Oil Liquid	\$150.00 \$135.00
ENVIRONMENTAL ENGINEERING AND CONSULTING SERVICES:	
Prepared and submitted a Release Notification Form (RNF) and Response Action Outcome (RAO) Statement with supporting letter report (dated January 2004) pursuant to MCP. Licensed Site Professional (LSP) reviewed, signed and submitted the RNF, RAO and supporting letter report.	
Licensed Site Professional Environmental Engineer Mail, Photocopying, Facsimile, etc.	\$220.00 \$600.00 \$100.00
PROJECT COMPLETE	
APPROVED BY: M. Gonthier	
should it be necessary to employ outside services to collect any amount, it is specifically agreed that the customer will pay all such cost, including reasonable attorney's fees and court costs.	\$4,483.65
TOTAL	

EXHIBIT “I”

CRIMINAL DOCKET

0413CR001350

SCHEDULING HISTORY

NO.	SCHEDULED DATE	SCHEDULED EVENT	RESULT		JUDGE	TAPE NO.	START	STOP
1	3-24-04	air	<input type="checkbox"/> Held	<input type="checkbox"/> Cont'd	5-17-04 PTH	Don	1-128	1660 1711
2	5-17-04	PTH	<input type="checkbox"/> Held	<input type="checkbox"/> Cont'd	6-9-04 PTH	Plattey	2-216	1700 1719
3	6-9-04	PTH	<input type="checkbox"/> Held	<input type="checkbox"/> Cont'd	7-28-04 MHD	Jenny	2-257	2807 2880
4	7-28-04	M	<input type="checkbox"/> Held	<input checked="" type="checkbox"/> Cont'd	10-5-04 BT	Plattey	42342	270 551
5	10-5-04	BT	<input type="checkbox"/> Held	<input type="checkbox"/> Cont'd	NG	Conley	2-442	3200 3910
6			<input type="checkbox"/> Held	<input type="checkbox"/> Cont'd		Conley	2-443	000 870
7			<input type="checkbox"/> Held	<input type="checkbox"/> Cont'd				
8			<input type="checkbox"/> Held	<input type="checkbox"/> Cont'd				
9			<input type="checkbox"/> Held	<input type="checkbox"/> Cont'd				
10			<input type="checkbox"/> Held	<input type="checkbox"/> Cont'd				

ARR=Arraignment PT=Pretrial hearing CE=Discovery compliance and jury selection T=Bench trial J=Jury Trial PC=Probable cause hearing M=Motion hearing SR=Status review
SRP=Status review of payments FA=First appearance in jury session S=Sentencing CW=Continuance-without-finding scheduled to terminate P=Probation scheduled to terminate
DFTA=Defendant failed to appear and was defaulted WAR=Warrant issued WARD=Default warrant issued WR=Warrant or default warrant recalled PR=Probation revocation hearing

ENTRY DATE	OTHER DOCKET ENTRIES
5-20-04	B1E by prob
7-22-04	M/D filed

ADDITIONAL ASSESSMENTS IMPOSED OR WAIVED

DATE IMPOSED and JUDGE	TYPE OF ASSESSMENT	AMOUNT	DUE DATES and COMMENTS	✓ WAIVED
	Legal Counsel Fee (211D §2A ¶2)			
	Legal Counsel Contribution (211D §2)			
	Court Costs (280 §6)			
	Drug Analysis Fee (280 §6E)			
	OUI §24D Fee (90 §24D ¶9)			
	OUI Head Injury Surfine (90 §24[1][a][1] ¶2)			
	Probation Supervision Fee (276 §87A)			
	Default Warrant Assessment Fee (276 §90 ¶2)			
	Default Warrant Removal Fee (276 §90 ¶1)			

EXHIBIT “J”

Ex1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ERIC SOUVANNAKANE,)
Plaintiff)
v.) Civil Action No. 04-12164-MLW
SEARS, ROEBUCK & COMPANY, et al.,)
Defendants)

**DEFENDANT, GARY MANSFIELD'S, ANSWERS TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

INTERROGATORIES

A. Identity and Background of Defendant Gary Mansfield

INTERROGATORY NO. 1

State your full name, and the name you customarily use, your residence address and telephone number, your social security number and your date of birth, place of birth (city, county, and state, or what country), and the exact name appearing on your birth certificate.

ANSWER NO. 1

Objection: The defendant objects to this interrogatory to the extent it seeks residential address and telephone number information concerning a law enforcement officer, which information is protected from disclosure by Mass. Gen. L. ch. 66 §10(d). The defendant further objects to this interrogatory to the extent it seeks a social security number for purposes other than those permitted under Federal law. Without waiving these objections, or any others that may apply, the defendant responds as follows:

Gary Mansfield, c/o Saugus Police Department, 27 Hamilton Street, Saugus, MA, date of birth 5-01-54, place of birth Lynn, MA.

INTERROGATORY NO. 2

Please identify and describe your employment history, including military service if applicable, since high school. Include in your description your rank as a police officer, promotions, dates of promotion, and special training, if any.

ANSWER NO. 2

Objection: The defendant objects to this interrogatory on the grounds that it is overbroad, it is overly burdensome, it is not properly limited as to time, and it seeks information which is irrelevant to the subject matter of this action, which will be inadmissible at the trial of this action, and which is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, or any others that may apply, the defendant responds as follows:

I was a member of the National Guard from 1973 to 1979 and have been employed with the Saugus Police Department from 1978 to present in the position of Patrolman.

B. Defendant Mansfield's "Investigation"**INTERROGATORY NO. 3**

Please state how you came to be present at the "Sears Automotive Center" in Saugus, Massachusetts on October 17, 2003, including in your answer, the identity of the person/persons who sent you, the position held by the person/persons who sent you, all instructions given to you and the identity of any other individuals accompanying you, or sent independently by the same authority who sent you to Sears Automotive Center on that date.

ANSWER NO. 3

I was dispatched to Sears by a police department dispatcher, name unknown, to investigate a complaint of malicious destruction of property.

INTERROGATORY NO. 4

Please describe in detail what you observed when you arrived at the "Sears Automotive Center" in Saugus, Massachusetts on October 17, 2003, including but not limited to, a complete description of the nature of the spilled liquid (the liquid alleged to have been spilled by Mr. Souvannakane), in detail the area in which you observed the liquid (complete/part parking lot, complete floor/parts of floor of the automotive center, and your initial conclusion as to what had transpired.

ANSWER NO. 4

NOTATION BY COUNSEL: Pursuant to Fed.R.Civ.P. 33(d), the defendant refers to the following documents from which the answer to this interrogatory may be derived or ascertained, and which documents have been previously produced: Saugus Incident Report #03-1692-OF and accompanying witness statements.

Further Responding:

I do not recall seeing the damaged property.

INTERROGATORY NO. 5

Please describe in detail all property observed by you at the "Sears Automotive Center" in Saugus, Massachusetts that in your opinion was destroyed by the liquid spilled that you observed on October 17, 2003. Include in your answer whether the destruction was total or partial, any damage done to the structure or fixtures and the estimated dollar value of the property destroyed.

ANSWER:

Objection: The defendant objects to this interrogatory on the grounds that it attempts to discover facts known and opinions held by experts beyond the scope allowed by Fed.R.Civ.P. 26(b)(4) without leave of court, and such leave of court has not been granted. Without waiving these objections, as well as any other that may apply, the defendant responds as follows:

I have no opinion regarding damages.

INTERROGATORY NO. 6

Please state how you arrived at the conclusion that the waste oil contained in a 30 gallon drum had a value of \$3,000.

ANSWER NO. 6

Objection: The defendant objects to this interrogatory as argumentative in that it presumes the defendant reached a conclusion as to value. Without waiving this objection, or any others that may apply, the defendant responds as follows:

That figure was given to me by Sears' employee Alicia Coviello.

INTERROGATORY NO. 7

Please state the identity of each individual to whom you spoke during your presence at the "Sears Automotive Center" in Saugus, Massachusetts on October 17, 2003, their position, the content of the conversation, your conclusions after interviewing the individuals alleged to have witnessed the "Spill."

ANSWER NO. 7

NOTATION BY COUNSEL: Pursuant to Fed.R.Civ.P. 33(d), the defendant refers to the following documents from which the answer to this interrogatory may be derived or ascertained, and which documents have been previously produced: Saugus Incident Report #03-1692-OF and accompanying witness statements.

Further Responding:

I spoke to Alicia Covielo and Jose Hernandez. I did not reach any conclusions as to the cause of the damaged property, but instead referred the case to the Clerk Magistrate for a Show Cause Hearing.

INTERROGATORY NO. 8

How did you conclude that the race/ethnicity of Eric Souvannakane was unknown? Did you learn this by questioning Sears employees as part of your "investigation?"

ANSWER NO. 8

Objection: The defendant objects to this interrogatory as argumentative. Without waiving this objection, or any others that may apply, the defendant responds as follows:

His race/ethnicity is/was a non-factor and unknown to me. It was listed as unknown.

INTERROGATORY NO. 9

In the "Response Of The Sears Defendants To Plaintiffs Request For Admissions Under Rule 36 Fed. R. Civ. P.," the defendants admit that in a written statement to William Sullivan, dated October 17, 2003, John Baldi wrote that he noticed a small spill about 8:30 p.m. on October 16, 2003 and was told by another tech that [the other tech] informed LCSA of a mess down back [in the Auto Center]"(See, Page 3 of admissions). Please state whether or not you were provided with this information, given a copy of the written statement given to William Sullivan, interviewed John Baldi, and your conclusion as to how a "small spill" at 8:30 p.m. on October 16, 2003 became a large spill on October 17, 2003, including in your answer an explanation how Eric Souvannakane increased the quantity of the spill either overnight when the building was closed or the following morning where the "Sears Defendants admit he was not present at the location."(See, pages 5 & 6 of admissions)

ANSWER NO. 9

Objection: The defendant objects to this interrogatory on the grounds that it is so vague and ambiguous that defendant cannot fairly respond, because it calls for speculation and surmise in explaining disputed evidence. Defendant further objects to this interrogatory to the extent it seeks to have defendant disprove plaintiff's allegations whereas the burden remains on plaintiff to prove his allegations. Without waiving these objections, or any others that may apply, the defendant responds as follows:

No I was not given the statement. I do not know what size the spill was.

INTERROGATORY NO. 10

Please state whether or not you interviewed Kevin Sullivan and/or Andrew DiGaetano when you responded to the Sears Automotive Center in Saugus, Massachusetts on October 17, 2003, their response to your questions, Mr. DiGaetano's explanation why he hydrated the oil spill with water from a hose in the building, whether or not Mr. Sullivan instructed him to hydrate the floor with water, and if your response is that you did not interview Kevin Sullivan and/or Andrew DiGaetano, an explanation why you did not do I so.

ANSWER NO. 10

I do not recall speaking to them, or meeting with them. I did not reach any conclusions as to the cause of the property damage. Based on the statements of the witnesses I did obtain, there was sufficient evidence to refer the case to the Clerk Magistrate for a Show Cause Hearing.

INTERROGATORY NO. 11

Please identify and describe all evidence collected/observed by you that incriminated Eric Souvannakane as having perpetrated the crime of "Malicious Destruction of Property in excess of \$250" and all evidence collected/observed by you that would exculpate Eric Souvannakane of the crime for which he was prosecuted. Include in your answer the results of any tests performed on samples of the spill collected by you or an explanation why samples were not collected.

ANSWER NO. 11

NOTATION BY COUNSEL: Pursuant to Fed.R.Civ.P. 33(d), the defendant refers to the following documents from which the answer to this interrogatory may be derived or ascertained, and which documents have been previously produced: Saugus Incident Report #03-1692-OF and accompanying witness statements.

INTERROGATORY NO. 12

Based on the circumstances now known to you, and your knowledge, training and experience as a police officer, state what you now believe happened at the "Sears Automotive Center" in Saugus, Massachusetts on October 16 & 17, 2003, including in your statement whether or not you believe the people you interviewed on October 17, 2003 were forthright and truthful with you and whether or not given the information you now possess Eric Souvannakane was improperly prosecuted for "Malicious Destruction of Property Over \$250."

ANSWER NO. 12

Objection: The defendant objects to this interrogatory on the grounds that it seek an opinion of law beyond the application of law to fact permitted by Fed.R.Civ.P. 33(b). Defendant further objects to this interrogatory to the extent it seeks to have defendant disprove plaintiff's

allegations whereas the burden remains on plaintiff to prove his allegations. Without waiving these objections, or any others that may apply, the defendant responds as follows:

I have no opinion. I was given a statement regarding the incident and asked to bring the matter before the court on behalf of Sears.

Signed under the pains and penalties of perjury this 27 day of Mar, 2006.



Gary Mansfield

AS TO OBJECTIONS:

Counsel for Defendant,
Gary Mansfield,



John J. Cloherty III, BBO#566522
PIERCE, DAVIS & PERRITANO, LLP
Ten Winthrop Square
Boston, MA 02110
(617) 350-0950

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon each attorney of record, or pro se litigant, by mail/by hand.



Date